

§ 1540.205

49 CFR Ch. XII (10–1–13 Edition)

the comparable assessment to the operator so the operator may retain a copy of it; and

(2) Notify the operator when the credential that corresponds to successful completion of the comparable assessment expires or is revoked for any reason.

(j) A security threat assessment conducted under this subpart remains valid for five years from the date that TSA issues a Determination of No Security Threat or a Final Determination of Threat Assessment, except—

(1) If the applicant is no longer authorized to be in the United States, the security threat assessment and the privileges it conveys expire on the date lawful presence expires; or

(2) If the applicant asserts completion of a comparable threat assessment, it expires five years from the date of issuance of the credential that corresponds to the comparable assessment, or the date on which the credential is revoked for any reason.

[74 FR 47700, Sept. 16, 2009, as amended at 76 FR 51867, Aug. 18, 2011]

§ 1540.205 Procedures for security threat assessment.

(a) *Contents of security threat assessment.* The security threat assessment TSA conducts under this subpart includes an intelligence-related check and a final disposition.

(b) *Intelligence-related check.* To conduct an intelligence-related check, TSA completes the following procedures:

(1) Reviews the applicant information required in 49 CFR 1540.203.

(2) Searches domestic and international government databases to determine if an applicant meets the requirements of 49 CFR 1540.201(c) or to confirm an applicant's identity.

(3) Adjudicates the results in accordance with 49 CFR 1540.201(c).

(c) *Wants, warrants, deportable aliens.* If the searches listed in paragraph (b)(2) of this section indicate that an applicant has an outstanding want or warrant, or is a deportable alien under the immigration laws of the United States, TSA sends the applicant's information to the appropriate law enforcement or immigration agency.

(d) *Final disposition.* Following completion of the procedures described in paragraph (b), the following procedures apply, as appropriate:

(1) TSA serves a Determination of No Security Threat on the applicant and operator if TSA determines that the applicant meets the security threat assessment standards in 49 CFR 1540.201(c).

(2) TSA serves an Initial Determination of Threat Assessment on the applicant, if TSA determines that the applicant does not meet the security threat assessment standards in 49 CFR 1540.201(c). The Initial Determination of Threat Assessment includes—

(i) A statement that TSA has determined that the applicant is suspected of posing or poses a security threat;

(ii) The basis for the determination;

(iii) Information about how the applicant may appeal the determination, as described in 49 CFR 1515.9; and

(iv) A statement that if the applicant chooses not to appeal TSA's determination within 60 days of receipt of the Initial Determination, or does not request an extension of time within 60 days of the Initial Determination of Threat Assessment in order to file an appeal, the Initial Determination becomes a Final Determination of Security Threat Assessment.

(3) TSA serves an Initial Determination of Threat Assessment and Immediate Revocation on the applicant and the applicant's operator or other operator as approved by TSA, where appropriate, if TSA determines that the applicant does not meet the security threat assessment standards in 49 CFR 1540.201(c) and may pose an imminent threat to transportation or national security, or of terrorism. The Initial Determination of Threat Assessment and Immediate Revocation includes—

(i) A statement that TSA has determined that the applicant is suspected of posing or poses an imminent security threat;

(ii) The basis for the determination;

(iii) Information about how the applicant may appeal the determination, as described in 49 CFR 1515.5(h) or 1515.9(h), as applicable; and

(iv) A statement that if the applicant chooses not to appeal TSA's determination within 60 days of receipt of the

Initial Determination, or does not request an extension of time within 60 days of the Initial Determination of Threat Assessment in order to file an appeal, the Initial Determination becomes a Final Determination of Security Threat Assessment.

(4) If the applicant does not appeal the Initial Determination of Threat Assessment or Initial Determination of Threat Assessment and Immediate Revocation, or if TSA does not grant the appeal, TSA serves a Final Determination of Threat Assessment on the individual and the applicant.

(5) If the applicant appeals an Initial Determination of Threat Assessment, the procedures in 49 CFR 1515.5 or 1515.9 apply.

§ 1540.207 [Reserved]

§ 1540.209 Fees for security threat assessment.

This section describes the payment process for completion of the security threat assessments required under this subpart.

(a) *Fees for security threat assessment.*

(1) TSA routinely establishes and collects fees to conduct the security threat assessment process. These fees apply to all entities requesting a security threat assessment. TSA reviews the amount of the fee periodically, at least once every two years, to determine the current cost of conducting security threat assessments. TSA determines fee amounts and any necessary revisions to the fee amounts based on current costs, using a method of analysis consistent with widely accepted accounting principles and practices, and calculated in accordance with the provisions of 31 U.S.C. 9701 and other applicable Federal law.

(2) TSA will publish fee amounts and any revisions to the fee amounts as a notice in the FEDERAL REGISTER.

(b) [Reserved]

(c) *Remittance of fees.* (1) The fees required under this subpart must be remitted to TSA in a form and manner acceptable to TSA each time the applicant or an aircraft operator, foreign air carrier, indirect air carrier, or certified cargo screening facility submits the information required under § 1540.203 or § 1540.207 to TSA.

(2) Fees remitted to TSA under this subpart must be payable to the "Transportation Security Administration" in U.S. currency and drawn on a U.S. bank.

(3) TSA will not issue any fee refunds, unless a fee was paid in error.

[74 FR 47700, Sept. 16, 2009, as amended at 76 FR 51867, Aug. 18, 2011]

Subpart D—Responsibilities of Holders of TSA-Approved Security Programs

SOURCE: 74 FR 47703, Sept. 16, 2009, unless otherwise noted.

§ 1540.301 Withdrawal of approval of a security program.

(a) *Applicability.* This section applies to holders of a security program approved or accepted by TSA under 49 CFR chapter XII, subchapter C.

(b) *Withdrawal of security program approval.* TSA may withdraw the approval of a security program, if TSA determines continued operation is contrary to security and the public interest, as follows:

(1) *Notice of proposed withdrawal of approval.* TSA will serve a Notice of Proposed Withdrawal of Approval, which notifies the holder of the security program, in writing, of the facts, charges, and applicable law, regulation, or order that form the basis of the determination.

(2) *Security program holder's reply.* The holder of the security program may respond to the Notice of Proposed Withdrawal of Approval no later than 15 calendar days after receipt of the withdrawal by providing the designated official, in writing, with any material facts, arguments, applicable law, and regulation.

(3) *TSA review.* The designated official will consider all information available, including any relevant material or information submitted by the holder of the security program, before either issuing a Withdrawal of Approval of the security program or rescinding the Notice of Proposed Withdrawal of Approval. If TSA issues a Withdrawal of